

March 15, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0022**
Proposed Ordinance No. **2007-0109**

TOTEM GREEN

Preliminary Plat Application and Transfer of Density Credits

Location: 12206 Northeast 144th Street, Kirkland

Applicant: Yelm Property Development, LLC
represented by **Tom Touma**
Touma Engineers
6632 S. 191st Place, #E-102
Kent, Washington 98032
Telephone: (425) 251-0665
Facsimile: (425) 251-0625

King County: Department of Development and Environmental Services (DDES)
represented by **Chad Tibbits**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve, subject to conditions
Approve, subject to conditions
Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:
Hearing Closed:

March 6, 2007
March 6, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

- Fire and emergency vehicle access
- Erosion
- Surface water drainage

SUMMARY:

The proposed subdivision of 23 lots in the urban area, utilizing the transfer of up to 3 density credits, is approved subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer:	Yelm Property Development Attn. Dennis Balascio P.O. Box 2950 Yelm, WA 98597 360-458-0544
Engineer:	Touma Engineers 6632 S. 191 st Place, Ste. E102 Kent, WA 98032 425-251-0665
STR:	21-26-05
Location:	The site is located at 12206 NE 144 th Street, Kirkland, WA.
Zoning:	R-8
Acreage:	2.4 acres
Number of Lots:	23
Density:	Approximately 9.58 units per acre
Lot Size:	Approximately 2,536 to 2,952 square feet in size
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	Kirkland Fire District
School District:	Lake Washington School District No. 414

Complete Application Date: February 24, 2006

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the March 6, 2007, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Existing site drainage flows from the south to the north, leaving the site along the north property line, where it enters a swale on the adjoining King County Parks Department property. The down stream flow continues north through the undeveloped park property, to the drainage system along Northeast 148th Street; it then turns west and continues as described in paragraph H of exhibit no. 2. The proposed development will continue to discharge storm water at the north property line.

Roof drains will be connected to the storm water drainage system in the new 122nd Place Northeast. That system will flow to the water quality and detention facilities at the north end of the property prior to discharge. There will be no additional flow of surface water from the developed property over the west or east property lines.

4. Erosion controls will be installed prior to site clearing and development. The specific requirements for erosion control will be developed in a temporary erosion and sedimentation control plan that is reviewed and approved with the engineering plans prior to site development. DDES is responsible for inspection of the site during development, to assure that the installed erosion controls operate effectively. There should be no erosion of soils onto the adjacent properties to the west and east during the site development and home construction activities.
5. Section 503 of the International Fire Code, adopted by King County, requires a 20 foot wide unobstructed driving surface for fire and emergency service vehicles. This unobstructed street width is necessary to enable vehicles to deploy rapidly to a fire or emergency scene. Parked vehicles that restrict available driving surface to less than 20 feet create a hazard for the public health and safety. Consequently, the King County Fire Protection engineer requires that parking be restricted on streets with a paved driving surface of 36 feet or less in width. For streets that have a 28 foot to a 36 foot wide driving surface, parking is restricted to one side of the street only. For streets that have a paved driving surface of less than 28 feet, no parking is permitted on either side of the street. These restrictions, if enforced, reasonably assure the maintenance of a 20 foot wide unobstructed driving surface.

If the proposed plat of Totem Green is developed with a 24 foot wide driving surface on 122nd Place Northeast, the fire protection engineer will require that a sprinkler system be provided for all homes served from that street, unless an enforceable parking restriction is established that prohibits parking on both sides of 122nd Place Northeast. The revised fire engineering conditions, dated 1/26/07, are attached to exhibit no. 2 and included in exhibit no. 1 of the hearing record.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.

2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on May 26, 2006, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The proposed subdivision of Totem Green, as revised and received on May 26, 2006, is granted preliminary approval, together with the transfer of up to 3 density credits, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

A Certificate of Transfer of Development Rights shall be required prior to Engineering Plan Review and Final Plat Approval, or the plat shall be redesigned to meet the base density of the R-8 zone.

Any plat boundary discrepancies shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, a "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).

5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

All future residences constructed within this subdivision are required to have sprinklers installed per NFPA 13D unless this requirement is removed or modified by the King County Fire Marshal or his/her designee. The Fire Code requires all portions of the exterior walls of structures to be within 150 feet (as a person would walk via an approved route around the building) from a minimum 20-foot wide, unobstructed driving surface. To qualify for removal of the sprinkler requirement, driving surfaces between curbs must be a minimum of 28 feet in width when parking is allowed on one side of the roadway, a minimum of 36 feet in width when parking is allowed on both sides, or parking may be prohibited on both sides of the street if the street is 20 to 28 feet in width.

6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.

- e. The stormwater facilities for this site shall be designed to meet at a minimum the Conservation Flow Control and Basic Water Quality requirements in the 2005 King County Surface Water Design Manual (KCSWDM).

The proposed stormwater vault shall meet the requirements of Section 6.4.2 Wetvaults in the KCSWDM. Note that internal walls to lengthen the flow path are not permitted without an adjustment. The length to width ratio of the water quality portion shall be 3:1, unless an adjustment is obtained.
- 7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. 122nd PI NE shall be improved at a minimum to the urban subaccess street standard, with a cul-de-sac at the north end.
 - b. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
- 8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
- 11. There shall be no direct vehicular access to or from NE 144th Street from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.
- 12. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.

- b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
13. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
14. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if NE 144th Street is on a bus route. If NE 144th Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.

15. To implement KCC 16.82 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of KCC 16.82, as well as the conceptual tree retention plan dated May 26, 2006. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 16.82. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 15th day of March, 2007.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 15th day of March, 2007, to the parties and interested persons of record:

Otto Brask
12110 NE 144th St.
Kirkland WA 98034

Cynthia Cantwell
12216 NE 143rd Pl.
Kirkland WA 98034

Elliott Drucker
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Art Greenmayer
12104 NE 143rd Pl.
Kirkland WA 98034

Jason Hernandez
14256 - 120th Pl. NE
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14454 - 121st Pl. NE
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Wendy VanKooten
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Ernest Weatherill
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14279 - 122nd Ave. NE
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Yelm Property Dev., LLC
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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before March 29, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before April 5, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MARCH 6, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0022.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits, Bruce Whittaker, Kristen Langley and Bill Mudd, representing the Department; Tom Touma, representing the Applicant, and Elliott Drucker.

The following Exhibits were offered and entered into the record:

- | | |
|---------------|----------------------------------------------------------------------------------------------|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L05P0022 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated March 6, 2007 |
| Exhibit No. 3 | Application for Land Use Permits received December 2, 2005 |
| Exhibit No. 4 | SEPA checklist received November 16, 2005 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued February 9, 2007 |

- Exhibit No. 6 Affidavit of Posting indicating a posting date of March 2, 2006; received by DDES on March 8, 2006
- Exhibit No. 7 Preliminary plat map received May 26, 2006 (Revised)
- Exhibit No. 8 Assessors maps: SW 16-26-05, NW 21-26-05
- Exhibit No. 9 Revised Level 1 Downstream Analysis prepared by Touma Engineers, received by DDES on October 23, 2006
- Exhibit No. 10 Sight distance layout prepared by Touma Engineers, received by DDES May 26, 2006
- Exhibit No. 11 Tree retention plan prepared by Touma Engineers, received by DDES May 26, 2006

JNOC:gao
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